

EXHIBIT A

From: Hartnett, Kathleen
Sent: Friday, September 6, 2024 7:20 PM
To: Holden Benon; Dunning, Angela L.
Cc: Joseph Saveri; Cadio Zirpoli; Aaron Cera; Margaux Poueymirou; Ashleigh Jensen; Rya Fishman; Matthew Butterick; Nada Djordjevic; James Ulwick; Bryan L. Clobes; Alexander Sweatman; Mohammed Rathur; dmuller@venturahersey.com; Amy Keller; David Straite; Christopher Young; Ruby Ponce; Ghajar, Bobby A.; Ghazarian, Colette A; Stameshkin, Liz; Lauter, Judd; Biksa, Liene; Alvarez, Jessica; mlemley@lex-lumina.com; Weinstein, Mark; Blankenship, Samuel
Subject: RE: Kadrey v. Meta, Case No. 3:23-cv-03417-VC-TSH: Request for Telephonic Conference

Holden,

We disagree that the issues we've asked to present to Judge Hixson are moot.

1. Depositions: We still have deposition dates for only five plaintiffs, and you have identified only 3 witnesses you plan to take (Melanie Kambadur and Todor Mihalov, and Stella Biderman). We need your 30(b)(6) notice (if plaintiffs expect to take one as part of their 10 depositions) and the identity of your other 6 individual witnesses. The correspondence today only serves to confirm we have no reason to expect you'll provide that information without a court order.
2. Motion to Compel regarding Plaintiffs' responses: The issue of when we will receive your sections is not moot. We want a date/time certain we will receive them. Your suggestion that your sections are "on track" to be completed by Tuesday (12 days after we provided our sections) is not even a firm commitment. I note that in your other email today at 4:58 (to which we'll be responding to separately), you asked that Meta provide its sections of the joint letter you want to submit within 29 hours of you providing yours, which is not a courtesy you have extended to Meta.
3. Dettmers Communications: The production of screenshots and an email you made is not sufficient. The email, itself, shows that there are other communications covered by the Order and responsive to our discovery requests that you continue to improperly withhold. We intend to raise this issue with Judge Hixson.

Judge Hixson's time permitting, we also would like to raise our outstanding request for Plaintiffs' copyright materials, covered by the very first RFP. Plaintiffs agreed on the July 30 call to investigate and confirm whether such copyright materials resided with their representatives, agents, or attorneys who were likely to have handled such filings (which would be within Plaintiffs' possession, custody, or control). We received no follow up in spite of several reminders. The materials are not publicly available. We need a representation that Plaintiffs have done a thorough investigation, including of agents and attorneys working for Plaintiffs (as promised), and production of all documents and communications with the USCO for each of the asserted works, including application filings, deposit copies submitted to the USCO, and any correspondence with the USCO.

Finally, with respect to the Dettmers-related production you made yesterday, you appear to have marked all pages as AEO. Although we appreciate that plaintiffs are now treating this material with sensitivity, please confirm that you marked these pages as Meta's AEO material, not Plaintiffs' AEO material. The only content in those communications that is confidential or privileged as to anyone belongs to Meta—no Plaintiff has any confidentiality interest in it whatsoever as these communications were exchanged with a third party.

Thanks,
Kathleen

Kathleen R. Hartnett

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Pronouns: she, her, hers

From: Holden Benon <hbenon@saverilawfirm.com>

Sent: Friday, September 6, 2024 5:02 PM

To: Dunning, Angela L. <adunning@cgsh.com>

Cc: Joseph Saveri <jsaveri@saverilawfirm.com>; Cadio Zirpoli <czirpoli@saverilawfirm.com>; Aaron Cera <aCera@saverilawfirm.com>; Margaux Poueymirou <mpoueymirou@saverilawfirm.com>; Ashleigh Jensen <ajensen@saverilawfirm.com>; Rya Fishman <rfishman@saverilawfirm.com>; Matthew Butterick <mb@buttericklaw.com>; Nada Djordjevic <ndjordjevic@dicellolevitt.com>; James Ulwick <Julwick@dicellolevitt.com>; Bryan L. Clobes <BClobes@caffertyclobes.com>; Alexander Sweatman <ASweatman@caffertyclobes.com>; Mohammed Rathur <mrathur@caffertyclobes.com>; dmuller@venturahersey.com; Amy Keller <akeller@dicellolevitt.com>; David Straite <dstraite@dicellolevitt.com>; Christopher Young <cyoung@saverilawfirm.com>; Hartnett, Kathleen <khartnett@cooley.com>; Ruby Ponce <rponce@saverilawfirm.com>; Ghajar, Bobby A. <bghajar@cooley.com>; Ghazarian, Colette A <cghazarian@cooley.com>; Stameshkin, Liz <lstameshkin@cooley.com>; Lauter, Judd <jlauter@cooley.com>; Biksa, Liene <lbiksa@cooley.com>; Alvarez, Jessica <jalvarezlopez@cooley.com>; mlemley@lex-lumina.com; Weinstein, Mark <mweinstein@cooley.com>; Blankenship, Samuel <sblankenship@cgsh.com>

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Angela,

Plaintiffs have returned the Subject Communications. Issue (1) below is mooted as a result.

We are in the process of providing dates for the Plaintiff-witnesses, and thus issue (2) is being resolved by the parties.

Issue (3) should also be withdrawn because Meta's preferred date of September 6 has passed. Plaintiffs agreed to provide their portion of the joint letter brief by September 10 and we are on track to do so. The issue is moot.

It is our view that the parties should jointly advise the Court of these developments and that the need for Monday's hearing has been mooted. Please let us know by 12pm tomorrow if you are amenable to a joint filing so advising the Court.

Thank you,
Holden

From: Dunning, Angela L. <adunning@cgsh.com>

Sent: Wednesday, September 4, 2024 6:17 PM

To: tshcrd@cand.uscourts.gov

Cc: Joseph Saveri <jsaveri@saverilawfirm.com>; Cadio Zirpoli <czirpoli@saverilawfirm.com>; Aaron Cera

<aCera@saverilawfirm.com>; Margaux Poueymirou <mpoueymirou@saverilawfirm.com>; Ashleigh Jensen <ajensen@saverilawfirm.com>; Rya Fishman <rfishman@saverilawfirm.com>; Matthew Butterick <mb@buttericklaw.com>; Nada Djordjevic <ndjordjevic@dicellolevitt.com>; James Ulwick <Julwick@dicellolevitt.com>; Bryan L. Clobes <BClobes@caffertyclobes.com>; Alexander Sweatman <ASweatman@caffertyclobes.com>; Mohammed Rathur <mrathur@caffertyclobes.com>; dmuller@venturahersey.com; Amy Keller <akeller@dicellolevitt.com>; Holden Benon <hbenon@saverilawfirm.com>; David Straite <dstraite@dicellolevitt.com>; Christopher Young <cyoung@saverilawfirm.com>; Hartnett, Kathleen <khartnett@cooley.com>; Ruby Ponce <rponce@saverilawfirm.com>; Ghajar, Bobby A. <bghajar@cooley.com>; Ghazarian, Colette A <cghazarian@cooley.com>; Stameshkin, Liz <lstameshkin@cooley.com>; Lauter, Judd <jlauter@cooley.com>; Biksa, Liene <lbiksa@cooley.com>; Alvarez, Jessica <jalvarezlopez@cooley.com>; mlemley@lex-lumina.com; Weinstein, Mark <mweinstein@cooley.com>; Blankenship, Samuel <sblankenship@cgsh.com>

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Dear Ms. Maher,

Cooley and Cleary Gottlieb represent Meta Platforms, Inc., defendant in the above-referenced action. We write pursuant to Judge Hixson's Discovery Standing Order to request a telephonic conference this week on several straightforward but important and time-sensitive issues as to which the parties have been unable to reach agreement following good faith meet and confer. Reserving all argument for the conference, the issues are as follows:

- (1) Should Plaintiffs be ordered to produce the "Subject Communications" to Meta under Judge Hixson's order of August 22 (Dkt. 114), which found that the Subject Communications "are privileged," that "Meta has not waived the privilege," and that "Plaintiffs therefore cannot use the Subject Communications and must return them to Meta or destroy them"?
- (2) Under Federal Rule of Civil Procedure 30(a)(2), both sides are currently entitled to take ten depositions. Meta has notified the other side of the ten depositions it wishes to take. Should both sides be required to promptly provide dates for ten witnesses of the other side's choosing so that these depositions can be noticed and completed by the Court-ordered close of discovery on September 30, 2024?
- (3) Following multiple rounds of good faith meet and confer, Meta provided its portions of a joint letter moving to compel further discovery from plaintiffs on Thursday, August 29. In light of the Court-ordered close of discovery on September 30 and the need to prepare for depositions, should plaintiffs be required to provide their portions of the joint letter to Meta by Friday, September 6 so that these matters may be promptly presented to Judge Hixson?

We would greatly appreciate your help in setting up a call with Judge Hixson on these matters for this week. We will make ourselves available at any time that is convenient to the Court.

Many thanks,

Angela

Angela L. Dunning

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